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KEALI'I S. LOPEZ  
DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Monday, April 2, 2012 – Agenda #3  
4 p.m.

**TESTIMONY ON SENATE BILL NO. 2769, S.D. 2, H.D. 2 – RELATING TO  
INSURANCE.**

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),  
testifying on behalf of the Department of Commerce and Consumer Affairs  
("Department"). Thank you for hearing this bill. The Department strongly supports this  
Administration bill.

The purpose of this bill is to make it easier for Hawaii consumers to purchase  
homeowners and motor vehicle insurance by posting premium information on the  
Department's website.

On January 3, 2012, the Department released homeowners premium  
information, which was voluntarily provided by 14 insurers and is similar to what is  
required by this bill. This information enables consumers to compare insurance rates  
for homeowners, condominium owners, and renters. The Department believes that  
requiring all homeowners insurers to provide similar information would help drive down  
premiums and keep the marketplace competitive.

Hawaii Revised Statutes ("HRS") § 431:10C-210 currently requires the Commissioner to publish a list of motor vehicle insurers and premium information. This bill provides for motor vehicle insurance premium information to be available electronically or on the Department's website and requires motor vehicle insurers to provide premium information within 30 days of the Commissioner's request.

This bill also enhances the present law, which allows the Commissioner to require that insurers submit new rate filings when the current rates may be excessive, inadequate, or unfairly discriminatory. The amendment to HRS § 431:14-103.3 allows the Commissioner to disapprove the new rate and set a proposed rate and the actuarial, statutory, factual, and legal basis for the proposed rate.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

Testimony of  
American Insurance Association  
1015 K Street, Suite 200  
Sacramento, California 95814 - 3803

**TO:** Representative Marcus Oshiro  
Chair, Committee on Finance  
Via Capitol Webpage

**DATE:** April 1, 2012

**RE:** **S.B. 2769, S.D. 2, H.D. 2 – Relating to Insurance**  
**Hearing Date: Monday, April 2, 2012 at 4:00 p.m.**  
**Conference Room 308**  
**Agenda #3**

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Dear Chair Oshiro and Members of the Committee on Finance:

The American Insurance Association (AIA) respectfully opposes S.B. 2769, S.D. 2, H.D. 2, Relating to Insurance.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

AIA **opposes** the provisions in S.B. 2769, S.D. 2, H.D. 2 that require publication of homeowner insurance premiums and that permit the Insurance Commissioner to intervene to adjust insurance rates after disapproval of a rate filing.

Section 1 of S.B. 2769, S.D. 2, H.D. 2, requires the Insurance Commissioner to annually publish notice of the availability of a list of homeowners insurers, with representative annual premiums. We believe this provision will result in the dissemination of inaccurate and inadequate data. Factors such as property location, age, type of construction and materials, history, and experience, among other things, are essential to accurate pricing for coverage. In the absence of this information, it is impossible for the Commissioner to put forth sufficient information, and this will lead to consumer confusion.

Additionally, we have concerns regarding the proposed ability of the Insurance Commissioner to set rates and the provisions regarding a hearing. The current law regarding review of rates is consistent with other states' insurance regulatory schemes and has proven effective. Rates should not be set by government fiat, but as currently provided in statute. The business of insurance is at present highly regulated and sensitive to the demands of the market. Interjecting rate setting by the government is not needed and would add another level of complexity and interference.

For the foregoing reasons, AIA must respectfully oppose S.B. 2769, S.D. 2, H.D. 2, and requests that it be held in committee.

Steven Suchil  
Assistant Vice President/Counsel  
State Affairs  
Western Region



Property Casualty Insurers  
Association of America

Shaping the Future of American Insurance  
1415 L Street, Suite 670, Sacramento, CA 95814-3972

To: The Honorable Marcus R. Oshiro, Chair  
House Committee on Finance

From: Mark Sektnan, Vice President

Re: **SB 2769 SD2 HD2– Relating to Insurance**  
**PCI Position -- Oppose**

Date: Monday, April 2, 2012 (Agenda #3)  
4:00 p.m., Conference Room 308

Aloha Chair Oshiro and Members of the Committee:

The Property Casualty Insurers Association of American (PCI) is opposed to SB 2769 SD2 HD2, which allows the Insurance Commissioner to adjust rates upon disapproval of insurance rate filings for property and casualty insurance. PCI is a trade association consisting of more than 1,000 insurers of all sizes and types. Its members represent 38.3 percent of the total general business insurance and 31.6 percent of the total homeowners business in the nation. In Hawaii, PCI members represent 15.2 percent of the homeowners market.

Under Hawaii SB 2769 SD2 HD2, the commissioner may require insurers to submit new rate filings if there is actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory. If the filed rates are still found to be excessive, inadequate, or unfairly discriminatory, the commissioner may disapprove the rate filing and adjust the rate(s) for any class of insurance. The commissioner shall issue a written notice of disapproval to the insurer, setting forth the commissioner's proposed rate(s) and the actuarial, statutory, factual, and legal bases for both the disapproval and the proposed rate(s).

Within 30 days of the commissioner's written notice of disapproval, the insurer may file a written request for a hearing.<sup>1</sup> If a hearing takes place, both the commissioner and

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<sup>1</sup> If the insurer does not request a hearing, the commissioner's rate(s) will become effective within 60 days after the deadline of the request. If a hearing is requested, the existing effective rate(s) shall remain in effect until 60 days after the final order is rendered by the department of commerce and consumer affairs and the appeals process has been exhausted. If a hearing takes place, it will begin within 20 days of receipt of the written request; written notice of the hearing shall be provided to the parties not less than 10 days prior to the hearing.

insurer shall present their respective rate(s) and filings along with other relevant supporting information. A proposed decision will be made within 15 days after the conclusion. The rate found to be in compliance with this article shall be effective 60 days after the final order is rendered by the director of commerce and consumer affairs and the appeals process has been exhausted.

### **Reasons for Opposing SB 2769 SD2 HD2**

- Hawaii currently has a prior approval rating law applicable to any class of insurance. No other state with a prior approval law has a rating process similar to that proposed by SB 2769 SD2 HD2. Generally under a prior approval system, if the commissioner disapproves a filing, he or she does *not* propose new rates.
- No commissioner should develop proposed rates for an insurer. Permitting a commissioner to do so could lead to serious market disruptions. For example, from the late 1970s to 2008, Massachusetts was widely regarded as having one of the most restrictive and least competitive automobile insurance markets in the nation. It was said to be the “most uniquely interventionist auto insurance system”<sup>2</sup> because the state regulator – rather than the insurers – was the one who determined how much drivers would pay for auto insurance. Not only was the vast majority of drivers – who were the better risks – penalized by having to pay more to offset large rate reductions given to higher-risk drivers, they were unable to buy coverage from many leading insurers who refused to operate in this market.<sup>3</sup>

North Carolina is the only jurisdiction that has a state rating bureau that controls the rating process by establishing insurance premiums. Like Hawaii, the use of age and gender as predictive loss variables has been prohibited from the North Carolina auto ratemaking process. As such, insurance prices currently bear little relationship to loss experience and result in large cross-subsidies similar to those found in Massachusetts. The insurance markets in this state have deteriorated in terms of competition, which has harmed consumers because they have been disadvantaged due to the lack of innovative products and services.

- The commissioner should not be in competition with an insurer to propose new rates for its policyholders. First of all, the commissioner may not have all the relevant information necessary to develop rates suitable for a particular company’s book of business. Secondly, the commissioner’s primary efforts should be focused on ensuring the solvency of insurance companies to protect consumers. The commissioner should not play the role of actuary by adjusting rates, nor should he

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<sup>2</sup> Tennyson, S., M.A. Weiss and L. Regan, *Automobile Insurance Regulation: The Massachusetts Experience*, in J. David Cummins, ed., *Deregulating Property-Liability Insurance: Restoring Competition and Increasing Market Efficiency*, Brookings Institution Press: 2002

<sup>3</sup> Effective April 1, 2008, Massachusetts adopted a “managed competition” system for determining auto insurance rates; instead of having state-established rates, a “file and use” rating system that allows market forces to determine insurance prices is now in place.

take up valuable staff resources to develop “actuarial, statutory, factual, and legal bases for... (his) proposed rate.”

**Conclusion**

An “interventionist” regulatory system would be very disruptive to the Hawaii insurance market and limit access to affordable insurance coverage. Hawaii is a prior approval state and should operate like other prior approval states – the commissioner should devote his time to other consumer protection activities and not be put in a position of having to develop and justify rates. SB 2769 SD2 HD2 is in no one’s best interest and should not pass.

Respectfully, we ask the committee to hold this bill.

Testimony of  
American Insurance Association  
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AIA **opposes** the provisions in S.B. 2769, S.D. 2, H.D. 2 that require publication of homeowner insurance premiums and that permit the Insurance Commissioner to intervene to adjust insurance rates after disapproval of a rate filing.

Section 1 of S.B. 2769, S.D. 2, H.D. 2, requires the Insurance Commissioner to annually publish notice of the availability of a list of homeowners insurers, with representative annual premiums. We believe this provision will result in the dissemination of inaccurate and inadequate data. Factors such as property location, age, type of construction and materials, history, and experience, among other things, are essential to accurate pricing for coverage. In the absence of this information, it is impossible for the Commissioner to put forth sufficient information, and this will lead to consumer confusion.

Additionally, we have concerns regarding the proposed ability of the Insurance Commissioner to set rates and the provisions regarding a hearing. The current law regarding review of rates is consistent with other states' insurance regulatory schemes and has proven effective. Rates should not be set by government fiat, but as currently provided in statute. The business of insurance is at present highly regulated and sensitive to the demands of the market. Interjecting rate setting by the government is not needed and would add another level of complexity and interference.



For the foregoing reasons, AIA must respectfully oppose S.B. 2769, S.D. 2, H.D. 2, and requests that it be held in committee.

Steven Suchil  
Assistant Vice President/Counsel  
State Affairs  
Western Region

## TESTIMONY OF ALISON POWERS

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HOUSE COMMITTEE ON FINANCE  
Representative Marcus R. Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

Monday, April 2, 2012  
4:00 p.m.

### **SB 2769, SD2, HD2**

Chair Oshiro, Vice Chair Lee, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council (HIC). HIC is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

HIC **opposes** SB 2769, SD2, HD2. The current draft does not repeal Section 431:10C-209.5, which is existing rate adjustment language in the motor vehicle insurance law. HIC believes that, if a law is passed that applies to all lines in the property and casualty insurance industry regarding rates, the law must be uniform and consistent for each of those lines. Section 431:10C-209.5 provides for a different process and poses possible conflicts with the bill on the table.

If the Legislature deems this bill necessary, HIC recommends the following amendments:

- 1) Repeal Section 431:10C-209.5,

~~"[ **§431:10C-209.5** Intervention by commissioner to adjust rates. (a) The commissioner, annually, may reduce rates and may adjust rates prospectively for~~

~~any class or type of mandatory coverage or optional additional motor vehicle insurance coverage for any insurer or group of insurers, if rates are excessive, inadequate, or unfairly discriminatory.~~

~~-(b) An affected party that objects to a rate adjustment pursuant to subsection (a) shall be entitled to a public hearing under chapter 91, at which all affected and interested parties shall have an opportunity to examine, comment, and present testimony on the impact and application of the proposed or revised rates.]~~

- 2) In Section 3 of the bill, make no changes to Section 431:14-103.3 (a) so that it reads as follows:

"Except as otherwise provided by law, the commissioner may mandate insurers to submit new filings for any type of insurance under section 431:14-102 when the commissioner has actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory."

Thank you for the opportunity to testify.



Liberty Mutual Insurance

Testimony to the House Committee on Finance  
April 2, 2012  
4:00 P.M. Hearing

**SB2769, SD2, HD2: RELATING TO INSURANCE**

Liberty Mutual respectfully opposes SB2769, SD2, HD2 because we have significant concerns regarding potential changes to the rate making process, changes that could be counter to the interests of consumers.

The bill allows the Commissioner to intervene to adjust insurance rates and provides for written notice of disapproval and hearing requirements – however, the Commissioner already has broad authority to approve rates. Our real concern is that this bill will too broadly increase the authority of a hearings officer, who is likely less experienced in rate-making than the current Commissioner.

SB2769, SD2, HD2 includes provisions addressing some concerns raised by insurance industry members, but we feel compelled to express our continued opposition.

Section 3, the rate adjustment mandate, is our greatest concern. While we understand the desire to provide for an additional arbitrator in the ratemaking process we believe this approach would significantly undermine, and possibly abrogate, the authority of the Insurance Commissioner to approve rate applications. The current provision would shift this responsibility to a hearing officer who may not be qualified nor experienced. We remain concerned that, in practice, a complex rate application, with justifiable support from skilled actuaries in both the Division and the insurer, would undermine the rate making process and unfairly leave the approval decision, or interim rate setting, to an unqualified hearing officer with limited knowledge of the rate making process.

While it is true that an appeals process utilizing hearings officers already exists, this bill increases the importance and the authority of such officers.

In short, we view the current system allowing the Commissioner to disapprove rate applications deemed to be excessive, inadequate, or unfairly discriminatory consistent with all state regulatory systems and appropriate and beneficial to Hawaii consumers.

Ultimately, we believe that the authority of the Commissioner of Insurance, granted under HRS 431:14-104 provides a responsible level of authority for the setting of rates, the solvency of insurance carriers and general regulatory oversight of the insurance industry. The provisions of this bill could undermine that authority.

The bill also requires the Commissioner to publish a list of homeowners insurers and homeowners insurance annual premiums as well as a list of motor vehicle insurers and motor vehicle insurance annual premiums on the insurance division's official website.



**Liberty Mutual Insurance**

While we believe the publication of homeowners' insurance premium rates (Sec 1) might prompt consumers to contact insurers for quotes and more specific details about what homeowners coverage would cost, it is only a snap shot and provides an estimated cost--not the actual cost--of coverage. It has the potential to be misleading and create confusion.

We understand the desire to assure that Hawaii consumers continue to have affordable insurance coverage for their homes available to them. As you know, Liberty Mutual Insurance has a long history of providing products and services to Hawaii residents and businesses. Liberty Mutual respectfully opposes SB2769, SD2, HD2. Thank you for the opportunity to testify.

**HOUSE COMMITTEE ON  
FINANCE**

April 2, 2012

Senate Bill 2769, SD 2, HD 2 Relating to Insurance

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders. State Farm offers the following amendment to Senate Bill 2769, SD 2, HD 2 Relating to Insurance.

We believe that the contested case rules under Chapter 91 should be applicable to this appeals process and the entire chapter should be included. We request that the language already in section 431:14-106, which is on page 12, lines 16-18, be added as a new subsection (g) on page 5, line 11.

Thank you for the opportunity to present this testimony.